

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Inez Hunter,

Civil 06-4316 JMR/FLN

Plaintiff,

v.

REPORT & RECOMMENDATION

Berry Johnson, et al.,

Defendant.

The only claims that have not been expressly dismissed in the above referenced case are those that are made against the Woodbury Community Land Trust. The Court has twice denied Plaintiff's motion for default judgment against this Defendant because it was never served, and has been dissolved. Although it appears that the claims may have been implicitly dismissed, the claims against Woodbury Community Land Trust were never expressly dismissed.

On July 26, 2007, Judge Ericksen entered an Order that any defendant that had not been served by August 17 would be dismissed without prejudice. At that time, Woodbury Community Land Trust had not been served, and in fact had been dissolved. There were, at that time, also several John Doe Defendants. In August, Judge Ericksen, did not dismiss the Doe defendants because Plaintiff by then had pending a motion to identify who they were. In the same Order, Judge Ericksen, denied Plaintiff's motion for default judgment against Woodbury Community Land Trust, because it had never been served. [#103] Arguably, because Woodbury Community Land Trust was not a Doe defendant, and because it had not been served, the claims were dismissed by operation of the July 26, 2007 Order, even though Judge Ericksen did not expressly identify them as being dismissed. Thereafter, Plaintiff again sought default judgment against Woodbury Community Land Trust. On June 23, 2008, Judge Rosenbaum again denied

Plaintiff's motion for default judgment against Woodbury Community Land Trust, because it had never been served, and had been dissolved. [#168, adopting Report & Recommendation #162].

Based upon the foregoing and all of the files records and proceedings herein, it appears that, if they have not already been, the claims against the Woodbury Community Land Trust should be dismissed and this case should be closed. It is, therefore, recommended that the above referenced case be closed.

DATED: June 27, 2008

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **July 17, 2008**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.